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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,692	11/26/2003	James B. McCormick	46521-56177	8923

21888 7590 06/04/2007  
THOMPSON COBURN, LLP  
ONE US BANK PLAZA  
SUITE 3500  
ST LOUIS, MO 63101

EXAMINER
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RAMILLANO, LORE JANET

ART UNIT	PAPER NUMBER
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1743

MAIL DATE	DELIVERY MODE
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06/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/723,692	<b>Applicant(s)</b> MCCORMICK, JAMES B.	
	<b>Examiner</b> Lore Ramillano	<b>Art Unit</b> 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/5/06</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-7 (Group I) in the reply filed on 4/6/07 is acknowledged.
2. Claims 8-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/6/07.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 2, and 5-7** are rejected under 35 U.S.C. 102(b) as being anticipated by Dyke (US 4874090).

In figures 1 and 2, Dyke discloses a foldable permeable sheet having edges; a permeable target disposed on the foldable permeable sheet within the edges of the sheet; and a malleable securing strip attached to the foldable permeable sheet of a length sufficient to secure the folded flap portions overlapping the target (i.e. column 2, line 35 to column 3, line 49).

Dyke further discloses, in figures 1 and 2, the following: that the malleable securing strip is attached at an edge of the permeable sheet; the target is coated with a release agent; the permeable target is a permeable paper sheet; and an X and Y coordinate marking lines on the permeable target (i.e. column 2, line 35 to column 3, line 49).

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5. **Claims 1, 2, and 5-7** are rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al. ("Tanaka," US 5662639).

In figures 1-3, Tanaka discloses a foldable permeable sheet having edges; a permeable target disposed on the foldable permeable sheet within the edges of the sheet; and a malleable securing strip attached to the foldable permeable sheet of a length sufficient to secure the folded flap portions overlapping the target (i.e. column 2, lines 1-64).

Tanaka further discloses, in figures 1-2, the following: that the malleable securing strip is attached at an edge of the permeable sheet; the target is coated with a release agent; the permeable target is a permeable paper sheet; and an X and Y coordinate marking lines on the permeable target (i.e. column 2, lines 1-64).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 3 and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyke in view of Rochette (US 3537636).

The disclosure of Dyke is stated above. Dyke does not specifically disclose having a malleable securing strip comprising a metal wire or a metal foil.

In figures 1-4, Rochette discloses an invention consisting of a reclosable bag formed from a sheet of flexible material. The bag further comprises a bendable metal wire and a pair of flexible coverings strips (i.e. metal foil), which are sealed together and the wire is sandwiched between so that the wire is embedded between the strips (i.e. column 2, line 70 to column 3, line 8). It would have been obvious to a person of ordinary skill in the art to modify Dyke's malleable securing strip with a metal wire and/or with a metal foil because it would be beneficial to have a sealing means that provides reinforcement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lore Ramillano whose telephone number is (571) 272-7420. The examiner can normally be reached on Mon. to Fri.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lore Ramillano  
Examiner  
Art Unit 1743

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700